

Remarks

The Office Action mailed March 30, 2004 has been carefully reviewed and the foregoing amendment has been made in consequence thereof.

Claims 1, 4-9, 12-17, and 20-24 are pending in this application. Claims 1-10, 14-18 and 22-24 stand rejected. Claims 11-13 and 19-21 are objected to. Claims 2-3, 10-11, and 18-19 are canceled as explained below.

The present amendment is intended to place the application in condition for allowance by incorporating subject matter indicated as allowable in the Office Action into independent Claims 1, 9, and 17, namely amending Claim 1 to include the recitations of allowable dependent Claim 3 and intervening Claim 2, amending Claim 9 to include the recitations of allowable dependent Claim 11 and intervening Claim 10, and amending Claim 17 to include the recitations of allowable dependent Claim 19 and intervening Claim 18. Accordingly, Claims 2-3, 10-11, and 18-19 have been canceled. Applicants wish to emphasize that the cancellation of Claims 2-3, 10-11, and 18-19 is without prejudice, and expressly reserve the right to file a continuation application or applications for further prosecution of the subject matter contained in these claims. Accordingly, Applicants expressly disavows any intention to surrender the subject matter of Claims 2-3, 10-11, and 18-19 by cancellation in the instant application, and reserves the right to prosecute these claims in future applications.

The rejection of Claims 1-2, 9-10, and 17-18 under 35 U.S.C. § 102(e) as being anticipated by Freeman et al. (U.S. Patent No. 6,249,775) ("Freeman") is respectfully traversed.

Claim 2 has been canceled. Claim 1 has been amended to include the recitations of allowable dependent Claim 3 and intervening dependent Claim 2. Accordingly, Claim 1 is patentable over Freeman.

Claim 10 has been canceled. Claim 9 has been amended to include the recitations of allowable dependent Claim 11 and intervening Claim 10. Accordingly, Claim 9 is patentable over Freeman.

Claim 18 has been canceled. Claim 17 has been amended to include the recitations of allowable dependent Claim 19 and intervening Claim 18. Accordingly, Claim 17 is patentable over Freeman.

For at least the reasons set forth above, Applicants respectfully request that the rejection of Claims 1-2, 9-10, and 17-18 be withdrawn.

The rejection of Claims 6-8, 14-16, and 22-24 under 35 U.S.C. § 103(a) as being unpatentable over Freeman et al. (U.S. Patent No. 6,249,775) ("Freeman") is respectfully traversed.

Claims 6-8 depend from independent Claim 1. Claim 1 has been amended to include the recitations of allowable dependent Claim 3 and intervening dependent Claim 2. Accordingly, Claim 1 is patentable over Freeman.

When the recitations of Claims 6-8 are considered in combination with the recitations of Claim 1, Applicants respectfully submit that dependent Claims 6-8 are also patentable over Freeman.

Claims 14-16 depend from independent Claim 9. Claim 9 has been amended to include the recitations of allowable dependent Claim 11 and intervening dependent Claim 10. Accordingly, Claim 9 is patentable over Freeman.

When the recitations of Claims 14-16 are considered in combination with the recitations of Claim 9, Applicants respectfully submit that dependent Claims 14-16 are also patentable over Freeman.

Claims 22-24 depend from independent Claim 17. Claim 17 has been amended to include the recitations of allowable dependent Claim 19 and intervening dependent Claim 18. Accordingly, Claim 17 is patentable over Freeman.

When the recitations of Claims 22-24 are considered in combination with the recitations of Claim 17, Applicants respectfully submit that dependent Claims 22-24 are also patentable over Freeman.

For the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claims 6-8, 14-16, and 22-24 be withdrawn.

The rejection of Claims 1-8 under 35 U.S.C. § 101 as being directed to non-statutory subject matter is respectfully traversed.

The Office Action suggests at page 4 that “Claims 1-8 do not recite any structure or functionality to suggest that a computer performs the recited claims... Thus, Claims 1-8 are rejected as being directed to non-statutory subject matter.” Applicants respectfully traverse this suggestion. However, Applicants have amended Claim 1 to address the rejection set forth in the Office Action.

More specifically, Applicants submit that the claims of the present patent application are directed to practical applications in the technological arts. “Any sequence of operational steps can constitute a process within the meaning of the Patent Act so long as it is part of the technological arts.” *In re Musgrave*, 431 F.2d 882 (C.C.P.A. 1970). For example, independent Claim 1 is a computer-implemented method for sampling assets in an asset portfolio for optimal underwriting coverage when only a portion of the assets are to be underwritten. Applicants submit that sampling assets in an asset portfolio for optimal underwriting coverage is a useful process that is considered to be within “the technological arts”.

One specific example of such a method implementation is a computer with a processor programmed to at least determine a number of samples to be submitted for further underwriting review by establishing a confidence level regarding the total recoveries probable in each cluster of the portfolio, establishing a precision to which total recoveries in each cluster are estimated, and providing an estimate of a level and a range of recoveries as a percentage of total Unpaid Principal Balance (UPB). While the claims are not limited to the specific examples related to a computer with a programmed processor, the claims need not be so restricted to satisfy the requirement of Section 101.

Applicants further traverse the assertion included in the Office Action that Claims 1-8 are directed to non-statutory subject matter under Section 101 in light of the “Examination

Guidelines for Computer-Related Inventions”. The Examination Guidelines for Computer-Related Inventions provides in relevant part as follows:

In order to determine whether the claim is limited to a practical application of an abstract idea, Office personnel must analyze the claim as a whole, in light of the specification, to understand what subject matter is being manipulated and how it is being manipulated. During this procedure, Office personnel must evaluate any statements of intended use or field of use, any data gathering step and any post-manipulation activity....Only when the claim is devoid of any limitation to a practical application in the technological arts should it be rejected under § 101. Further, when such a rejection is made, Office personnel must expressly state how the language of the claims has been interpreted to support the rejection.

Applicants respectfully submit that Claim 1 is limited to a practical application in the technological arts. Furthermore, Applicants respectfully submit that the Office Action does not expressly state how the language of Claim 1 supports the Section 101 rejection.

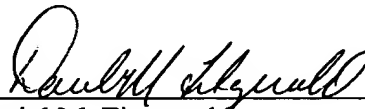
Claim 1 has been amended. Claim 1 recites a “computer-implemented method for sampling assets in an asset portfolio for optimal underwriting coverage when only a portion of the assets are to be underwritten”. Thus, Applicants submit that Claim 1 is directed to a useful process that is considered to be within “the technological arts”. Furthermore, Claim 1 recites a “computer-implemented method for sampling assets in an asset portfolio for optimal underwriting coverage when only a portion of the assets are to be underwritten, said method implemented using a computer coupled to a database”. The method includes the step of “utilizing the computer to determine a number of samples to be submitted for further underwriting review by....” Thus, Claim 1 uses a computer system to perform certain steps of the process. Claim 1 is therefore directed to a practical application in the technological arts.

Dependent Claims 2-8 depend from independent Claim 1, and these dependent Claims are submitted to satisfy the requirements of Section 101 for the same reasons set forth above with respect to independent Claim 1.

For at least the reasons set forth above, Applicants respectfully request that the Section 101 rejection of Claims 1-8 be withdrawn.

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Daniel M. Fitzgerald", is written over a horizontal line.

Daniel M. Fitzgerald
Registration No. 38,880
ARMSTRONG TEASDALE LLP
One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102-2740
(314) 621-5070